IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 18993 of 2007(J)

PETITIONER:

K.V. GOPALAKRISHNAN,
'RESMI' HOUSE NO.319/XII, MUTHIRAPADAM,
THAIKATTUKARA P.O., ALUVA, ERNAKULAM DISTRICT.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR

RESPONDENTS:

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1. **STATE OF KERALA,**
   REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY,
   HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE DIRECTOR GENERAL OF POLICE,**
   POLICE HEADQUARTERS, THIRUVANANTHAPURAM.

3. **THE SUPERINTENDENT OF POLICE,**
   CRIME BRANCH, PALAKKAD.

4. **CENTRAL BUREAU OF INVESTIGATION,**
   REPRESENTED BY ITS SUPERINTENDENT, C.B.I. OFFICE,
   KATHRIKADAVU, KOCHI-17.

BY GOVERNMENT PLEADER SRI. M.S. BREEZ
BY ADV. SRI.S.SREEKUMAR, SC FOR CBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

R.BASANT, J.

W.P.C.No.18993 of 2007

Dated this the 30th day of October 2007

J U D G M E N T

The petitioner's father, an ex-service man aged 85 years and his mother, a house wife, aged 69 years were residing at Palakkad in the evening of their life. All their children are well employed and are not available to reside along with them. On the evening of 5/12/2006, they appear to have retired for the day. But on the next morning, they were found dead. Both of them had succumbed to injuries inflicted on them. There was an attempt to destroy evidence by burning their bodies. The body of the father was almost completely charred. The body of the mother also reveals attempts to burn the same. The injuries were prominently visible in the body of the mother. As many as 56 incised injuries were seen in the body of the mother. The body of the father having been charred, it was not possible to ascertain the precise injuries. Crime No.448/2006 of Palakkad Town South Police station was registered under Sections 449 and 302 I.P.C. Investigation was conducted by the local police. Later the CBCID took over the investigation. The investigation is continuing. No breakthrough has been made in the investigation. The petitioner has come before this court with the prayer that before it is too late and the vital indications are lost, the investigation may be entrusted to a

more competent agency, which has the necessary infrastructure and the men and material equal to the task to take over the investigation. The petitioner prays that the fourth respondent CBI may be directed to continue the investigation in this crime.

2. Notice was given. Statements have been filed by the respondents. I have perused the case diary maintained by the investigating officers. I have heard the learned counsel for the petitioner, the learned Public Prosecutor as also the learned Standing Counsel for the CBI.

3. The case diary reveals that no clue worth the name has so far been secured by the investigators to resolve the mystery of the crime. Various efforts are seen made by the investigating officers who have been changed without any valid reasons and frequently. But none of them has been able to really come to grips with the challenge before them.

4. It will not be inapposite in this context to mention that the Kerala police must have a healthier and better work culture regarding investigation by officers. The learned Director General of Prosecutions who was himself present before court represented that he has also been repeatedly insisting that police officers should not be transferred before they are able to complete the task before them. A

perusal of the case diary in this case reveals the sad tale of investigating officers being changed frequently without any regard for the damage that such changes cause to the needs of a proper investigation. The sooner we realise this need, the better for the course of crime investigation in the State. The very frequent requests that have been coming before this court for entrustment of investigation to the CBI is of course an indication of the confidence of the polity in the ability of the CBI to conduct a proper and efficient investigation. It is certainly a compliment for the efficiency of the CBI. But the State authorities must also feel that it is an expression of dissatisfaction and want of confidence in the nature of investigations conducted by the local police. Active efforts must come from the powers that be to ensure that the Kerala police is transformed into a vibrant, efficient and competent agency to investigate. I do hope that steps will be taken expeditiously to ensure that investigation which is a very special and skilled job is entrusted to officers who are exclusively in charge of investigation and they are permitted to attend to the task of investigation with rivetted attention.

5. I shall not embark on a detailed discussion about the efforts made in the investigation and the outcome thereof. Suffice it to repeat that the investigation so far has not yielded any tangible or

positive results. The learned Public Prosecutor, who helped the court by going in detail through the case diary had to concede that, at the moment, police have not been able to resolve the crime in any satisfactory manner. They are nowhere near the destination of resolving the mystery of the crime.

6. In the interests of the victims, in the interests of the polity at large and also in the interests of all those concerned with the administration of criminal justice, it is essential that proper and efficient investigations are conducted to resolve crimes that are committed. More so in respect of crimes which have shocked the conscience of the society. Brutal murder of the aged couple in this case must have sent down shockwaves down the spines of right thinking members of the society. It is, therefore, essential that all efforts are made to resolve the crime and bring the offenders to book. Any delay on that front is bound to shake the public confidence in the criminal adjudicatory process.

7. I am satisfied that investigation must be entrusted to better, more competent and more efficient hands. Where shall I find such hands? This is the question. I am not satisfied, as suggested by the learned Public Prosecutor that I can direct the investigation to be conducted by any higher officials of the Kerala police. The Crime

Branch CID is already conducting the investigation and such investigation is under the scanner of a very high officials of the police. But no tangible results are produced. Nay there is no indication of the possibility of any such results. The only alternative to me appears to be to entrust the investigation to the fourth respondent, the CBI. The learned Standing Counsel for CBI laments about the pressure of work that the CBI has to shoulder in this State and want of adequate infrastructure and facilities to conduct investigations. It is certainly for the State Government to make all facilities available to the CBI to conduct a proper investigation. It is the duty of the State to ensure that that is done as the task primarily is to be accomplished by the State police and I am directing entrustment of the investigation to CBI because I am not able to find any other better course for a proper investigation by the State police.

8. This writ petition is in these circumstances allowed. Investigation into crime No.448/2006 of Palakkad Town police station which is now being investigated by the CBCID as crime No.46/CR/PKD/2007 shall hereafter be taken over and continued by the CBI.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007